THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26930 of 2006

24.1.2007

Between:

I.Eswar Rao, S/o.Sri Nageswara Rao
And another

… Petitioners

AND

The Mandal Revenue Officer, Chintapalli Mandal, Nalgonda District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26930 of 2006

ORDER:

The petitioners herein purchased land admeasuring Acs.9.21 guntas in survey Nos.889/2 and 893/1, Acs.1.11 guntas in survey No.889/2/1, and Acs.0.34 guntas in survey No.888/5, under different sale deeds from one Varikuppala Ramulu. Petitioners got their names mutated in the revenue records and also obtained Pattadar Pass Books (PPBs) and title deeds under the provisions of A.P. Rights in Land and Pattadar Pass Books act, 1971 (the Act, for brevity). They also allege that the vendor, Ramulu, died on 10.12.2000. However, when respondents 3 to 6 made attempts to interfere with their possession, petitioners filed a suit being O.S.No.67 of 2006 on the file of the Court of the Junior Civil Judge, Devarakonda, and obtained ad interim injunction in I.A.No.258 of 2006 dated 04.9.2006. In the said suit, contesting respondents were set *ex parte* and an *ex parte* order was passed. The contesting respondents, in the application made to set aside the *ex parte* order, alleged that they made an application before the Mandal Revenue Officer (MRO), Chintapalli Mandal in Nalgonda District – first respondent herein; for mutation of their names in the revenue records. Immediately, the petitioners submitted objection petition when they were informed that on 29.11.2006 itself, the first respondent passed orders directing registration of names of respondents 3 to 6 in the revenue records purportedly in accordance with the decree dated 20.9.2005 in O.S.No.1 of 2000 on the file of the Court of the junior Civil Judge, Devarakonda. Aggrieved by the proceedings of the first respondent, the present writ petition is filed.

Learned Counsel for the petitioners contends that the Civil Court purportedly passed the *ex parte* partition decree on 15.2.2001 by

which date Varikuppala Ramulu (vendor of the petitioners), the sold defendant in the said suit, was no more. Therefore, the decree passed by the Civil Court does not in any manner defeat the rights of the petitioners. Secondly, he submits that after purchasing the property from Ramulu in 1997, petitioners obtained PPB Nos.673025 and 673472 from the first respondent and they could not have been cancelled without notice to the petitioners.

At the stage of admission itself, learned Counsel for respondents 3 to 6 appeared through a Counsel, who does not dispute that no notice was issued to the petitioners by the first respondent before ordering mutation in the revenue records in favour of the respondents 3 to 6. Leaned Assistant Government Pleader for Revenue (General-A) points out that against the impugned order, an appeal would lie to the jurisdictional Revenue Divisional Officer under Section 5(5) of the Act.

It is no doubt true that against the order passed by the MRO, impugned in the writ petition, appeal would lie. However, as pointed out by the learned Counsel for petitioners, the decree in O.S.No.1 of 2000 dated 20.9.2005 is itself passed against dead person as alleged, as the sole defendant died on 10.12.2000, and therefore, the MRO should enquire the matter from this perspective, after giving notice to the petitioners as well as respondents 3 to 6. In the facts and circumstances of this case, a fresh enquiry by the MRO would be proper. Therefore, the impugned order is set aside and the matter is remitted to the first respondent with a direction to issue notice to the petitioners and respondents 3 to 6, and pass appropriate orders on the representation made by the third respondent within a period of eight weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(**V.V.S.RAO,J**)

January 24, 2007.
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Note:
Dispatch order copy by 27.01.2007.
B/o.
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